

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
CRIMINAL CASE NO. 2:13-cr-00002-MR-DLH**

UNITED STATES OF AMERICA,

vs.

**(1) EUDINE TRENAE WILSON; and
(2) MARIE LUZINSKI RAYMOND.**

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ORDER

THIS MATTER is before the Court on Defendant Eudine Trenae Wilson's Motion for Continuance [Doc. 88] and Defendant Marie Luzinski Raymond's Motion for Joinder in Defendant Wilson's Motion to Continue Docket Call [Doc. 89].

On February 20, 2013, the Defendants were charged in a Bill of Indictment with conspiracy to possess with intent to distribute a Schedule II controlled substance in violation of 21 U.S.C. § 841(a)(1) and with possession with intent to distribute oxycodone in violation of 21 U.S.C. § 841(a)(1). [Doc. 5]. Following their arraignments, the Defendants were placed on the March 25, 2013 calendar for trial. The Court subsequently continued the case to the May 28, 2013 trial term. [Docs. 15, 19]. On April 1, 2013, the Court granted Defendants Wilson and Raymond an extension

of time, until April 22, 2013, within which to file pretrial motions. [Docs. 31, 32]. On April 22, 2013, Defendants Wilson and Raymond each filed a motion to suppress. [Docs. 39, 42]. Thereafter, Defendant Raymond moved for a continuance of the trial date, which was granted. [Doc. 43]. The case was continued to the August 12, 2013 trial term.

The Magistrate Judge heard the Defendants' suppression motions over the course of three days in June 2013. In July 2013, the Defendants moved to continue the trial date on the basis that the Magistrate Judge still had the suppression motions under advisement. The Court granted the Defendants' motions and continued the trial to the September 23, 2013 trial term. [Doc. 58].

The Defendants then moved for another continuance of the trial, which the Government did not oppose. [Docs. 65, 66]. On September 6, 2013, the Court granted the Defendants' motion and continued this matter to its present setting during the December 2, 2013 trial term. [Doc. 69].

On September 25, 2013, the Magistrate Judge filed a Memorandum and Recommendation on the motions to suppress. [Doc. 85]. Objections were filed in October 2013 and are currently under advisement with the Court. [See Docs. 85, 86]. The Defendants now seek another continuance

of the trial. [Docs. 88, 89]. The Government does not oppose the Defendants' request for a continuance.

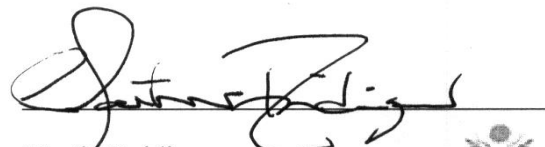
The Court finds that this case should be continued. The Speedy Trial Act excludes from the time within which a defendant must be brought to trial "[a]ny period of delay . . . resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion." 18 U.S.C. § 3161(h)(1)(D). The Speedy Trial Act further excludes any "delay reasonably attributable to any period, not to exceed thirty days, during which any proceeding concerning the defendant is under advisement by the court." 18 U.S.C. § 3161(h)(1)(H). As noted above, the Magistrate Judge's Memorandum and Recommendation on the Defendants' suppression motions is currently under advisement by the Court. It is unlikely that the Court can rule on the parties' objections to the Memorandum and Recommendation sufficiently in advance of the December 2, 2013 trial term in order to allow the parties an adequate opportunity to prepare for trial in light of the Court's ruling. Under these circumstances, the Court finds that a failure to continue the case would result in a miscarriage of justice. See 18 U.S.C. § 3161(h)(7)(B)(i).

For the reasons stated herein, the ends of justice served by the granting of the continuance outweigh the best interests of the public and the Defendants in a speedy trial. See 18 U.S.C. § 3161(h)(7)(A).

Accordingly, **IT IS, THEREFORE, ORDERED** that Defendant Eudine Trenae Wilson's Motion for Continuance [Doc. 88] and Defendant Marie Luzinski Raymond's Motion for Joinder in Defendant Wilson's Motion to Continue Docket Call [Doc. 89] are **GRANTED**, and this case is hereby **CONTINUED** from the December 2, 2013 term in the Bryson City Division.

IT IS SO ORDERED.

Signed: November 20, 2013


Martin Reidinger
United States District Judge

